

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1273 of the Regular Session

As Engrossed: H3/9/05 H3/11/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HOUSE BILL 2532

4
5 By: Representative Medley
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For An Act To Be Entitled

8
9 AN ACT TO PROTECT RESIDENTS OF LONG-TERM CARE
10 FACILITIES; TO ENSURE THAT LONG-TERM CARE
11 FACILITIES RECEIVE PAYMENTS INTENDED TO BE PAID
12 TO THE FACILITIES; AND FOR OTHER PURPOSES.
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Subtitle

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15 AN ACT TO ENSURE THAT RESIDENTS OF LONG-
16 TERM CARE FACILITIES ARE PROTECTED AND
17 THE FACILITIES PAID.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 20, Chapter 10, Subchapter 1 is amended
23 to additional sections to read as follows:

24 20-10-109. Findings -- Intent.

25 (a) The General Assembly finds that:

26 (1) Residents in Arkansas's long-term care facilities are
27 particularly vulnerable to the theft or illegal diversion of personal funds
28 designated as residents' share of cost under the state Medicaid program;

29 (2) The theft or illegal diversion of residents' share of
30 cost under the state Medicaid program has an adverse impact on the resources
31 available to ensure high-quality care for all facility residents; and

32 (3) Sections 20-10-109 and 20-10-110 are necessary to:

33 (A) Protect long-term care residents' rights;

34 (B) Provide appropriate resources for residents'
35 care; and



1 (C) Ensure that residents' funds designated to pay
2 for long-term care are used for that purpose.

3 (b) The General Assembly intends that §§ 20-10-109 and 20-10-110
4 affect individuals who intentionally steal or divert residents' share of cost
5 and not change the obligations or responsibilities of residents of long-term
6 care facilities or deter legitimate disputes over the amount of a resident's
7 share of cost.

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9 20-10-110. Protection of residents' personal funds.

10 (a) For the purposes of this section:

11 (1) "Agent" means a person who manages, uses, controls, or otherwise
12 has legal access to a resident's income or resources that legally may be used
13 to pay a resident's share of cost or other charges not paid for by the state
14 Medicaid program;

15 (2) "Long-term care facility" means a nursing home,
16 residential care facility, post-acute head injury retraining, and residential
17 care facility, or any other facility that provides long-term medical or
18 personal care;

19 (3) "Medicaid recipient" means any individual in whose behalf
20 any person claimed or received any payment or payments from the state
21 Medicaid program; and

22 (4) "Resident" means a person:

23 (A) Who resides on a permanent and full-time basis in
24 a long-term care facility;

25 (B) Who is a Medicaid recipient; and

26 (C) Whose facility care is paid in whole or in part
27 by the state Medicaid program.

28 (b)(1) No long-term care facility may require a third-party
29 guarantee of payment to the facility as a condition of admission, expedited
30 admission, or continued stay in the facility.

31 (2) However, a long-term care facility may require an agent who
32 has legal access to a resident's income or resources available to pay for
33 facility care to sign a contract without incurring personal financial
34 liability to provide facility payment from the resident's income or
35 resources.

36 (c) An agent who guarantees payment under subdivision (b)(2) of this

1 section shall be personally liable to the facility for payment of a
2 resident's share of cost or other charges incurred by the resident if and to
3 the extent that the agent uses a resident's income or resources for purposes
4 other than the resident's facility care.

5 (d) Unless otherwise exempted by law or contract, a resident or his or
6 her agent shall pay for the resident's share of cost or other charges not
7 paid for by the state Medicaid program.

8 (e) If a resident who has not been a Medicaid recipient becomes a
9 Medicaid recipient, the long-term care facility shall make a reasonable
10 attempt to contact the state Medicaid program to determine the resident's
11 share of cost.

12 (f)(1) If a resident or his or her agent disputes the amount of share
13 of cost owed to a long-term care facility, the resident or agent may apply
14 for a hearing under the rules of the Department of Human Services for a
15 determination of the amount of share of cost owed to the long-term care
16 facility.

17 (2) The hearing shall be limited to only a determination of
18 the amount of share of cost owed to the long-term care facility, and shall
19 not result in a determination that names the person or persons responsible
20 for the payment of that share.

21 (g) Any agent who knowingly violates the requirements of this
22 section is guilty of a misdemeanor and shall be punished by a fine not to
23 exceed two thousand five hundred dollars (\$2,500) or by imprisonment not to
24 exceed one hundred eighty (180) days, or both.

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26 /s/ Medley

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29 APPROVED: 3/29/2005
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